

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2309

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 41-2306, Arizona Revised Statutes, as amended by  
3 Laws 2010, seventh special session, chapter 12, section 17, is amended to  
4 read:

5 41-2306. Tourism fund

6 A. The tourism fund is established consisting of separate accounts  
7 derived from:

8 1. REVENUES DEPOSITED PURSUANT TO SECTION 42-5029. ALL MONIES IN THIS  
9 ACCOUNT ARE CONTINUOUSLY APPROPRIATED TO THE OFFICE OF TOURISM FOR THE  
10 PURPOSES OF OPERATIONS AND STATEWIDE TOURISM PROMOTION.

11 ~~1.~~ 2. Revenues deposited pursuant to section 5-835, subsection B  
12 or C. All monies in this account are continuously appropriated to the office  
13 of tourism, which, in consultation with a consortium of destination marketing  
14 organizations in the county in which the tourism and sports authority is  
15 established, shall be spent to promote tourism within that county. FOR  
16 FISCAL YEARS 2010-2011 AND 2011-2012, fifty per cent of the revenues  
17 deposited in the tourism fund pursuant to this subsection may be expended by  
18 the office of tourism for operational and administrative purposes.

19 ~~2.~~ 3. Revenues deposited pursuant to section 42-6108.01. The  
20 legislature shall appropriate all monies in this account to the office of  
21 tourism, which, in conjunction with the destination marketing organization in  
22 the county in which the tax revenues are collected, shall be spent only to  
23 promote tourism within that county and shall not be spent for administrative  
24 or overhead expenses.

1           4. Revenues deposited pursuant to section 5-601.02(H)(3)(b)(iv). The  
2 office of tourism shall administer the account. The account is not subject  
3 to appropriation, and expenditures from the fund are not subject to outside  
4 approval notwithstanding any statutory provision to the contrary. Monies  
5 received pursuant to section 5-601.02 shall be deposited directly with this  
6 account. On notice from the office of tourism, the state treasurer may  
7 invest and divest monies in the account as provided by section 35-313, and  
8 monies earned from investment shall be credited to the account. No monies in  
9 the account shall revert to or be deposited in any other fund, including the  
10 state general fund. Monies in this account shall supplement, not supplant,  
11 current funds in other accounts of the tourism fund. Monies in this account  
12 shall be spent only to promote tourism within the state and shall not be used  
13 for administrative or overhead expenses.

14           B. Monies in the fund are exempt from the provisions of section 35-190  
15 relating to lapsing of appropriations.

16           Sec. 2. Section 42-5029, Arizona Revised Statutes, as amended by Laws  
17 2010, seventh special session, chapter 12, section 31, is amended to read:

18           42-5029. Remission and distribution of monies; definition

19           A. The department shall deposit, pursuant to sections 35-146 and  
20 35-147, all revenues collected under this article and articles 4, 5 and 8 of  
21 this chapter pursuant to section 42-1116, separately accounting for:

- 22           1. Payments of estimated tax under section 42-5014, subsection D.
- 23           2. Revenues collected pursuant to section 42-5070.

24           3. Revenues collected under this article and article 5 of this chapter  
25 from and after June 30, 2000 from sources located on Indian reservations in  
26 this state.

27           4. Revenues collected pursuant to section 42-5010, subsection G and  
28 section 42-5155, subsection D.

29           B. The department shall credit payments of estimated tax to an  
30 estimated tax clearing account and each month shall transfer all monies in  
31 the estimated tax clearing account to a fund designated as the transaction  
32 privilege and severance tax clearing account. The department shall credit

1 all other payments to the transaction privilege and severance tax clearing  
2 account, separately accounting for the monies designated as distribution base  
3 under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the  
4 department shall report to the state treasurer the amount of monies collected  
5 pursuant to this article and articles 4, 5 and 8 of this chapter.

6 C. On notification by the department, the state treasurer shall  
7 distribute the monies deposited in the transaction privilege and severance  
8 tax clearing account in the manner prescribed by this section and by sections  
9 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the  
10 account pursuant to sections 42-1118 and 42-1254.

11 D. Of the monies designated as distribution base the department shall:

12 1. Pay twenty-five per cent to the various incorporated municipalities  
13 in this state in proportion to their population to be used by the  
14 municipalities for any municipal purpose.

15 2. Pay 38.08 per cent to the counties in this state by averaging the  
16 following proportions:

17 (a) The proportion that the population of each county bears to the  
18 total state population.

19 (b) The proportion that the distribution base monies collected during  
20 the calendar month in each county under this article, section 42-5164,  
21 subsection B, section 42-5205, subsection B and section 42-5353 bear to the  
22 total distribution base monies collected under this article, section 42-5164,  
23 subsection B, section 42-5205, subsection B and section 42-5353 throughout  
24 the state for the calendar month.

25 3. Pay an additional 2.43 per cent to the counties in this state as  
26 follows:

27 (a) Average the following proportions:

28 (i) The proportion that the assessed valuation used to determine  
29 secondary property taxes of each county, after deducting that part of the  
30 assessed valuation that is exempt from taxation at the beginning of the month  
31 for which the amount is to be paid, bears to the total assessed valuations  
32 used to determine secondary property taxes of all the counties after

1 deducting that portion of the assessed valuations that is exempt from  
2 taxation at the beginning of the month for which the amount is to be paid.  
3 Property of a city or town that is not within or contiguous to the municipal  
4 corporate boundaries and from which water is or may be withdrawn or diverted  
5 and transported for use on other property is considered to be taxable  
6 property in the county for purposes of determining assessed valuation in the  
7 county under this item.

8 (ii) The proportion that the distribution base monies collected during  
9 the calendar month in each county under this article, section 42-5164,  
10 subsection B, section 42-5205, subsection B and section 42-5353 bear to the  
11 total distribution base monies collected under this article, section 42-5164,  
12 subsection B, section 42-5205, subsection B and section 42-5353 throughout  
13 the state for the calendar month.

14 (b) If the proportion computed under subdivision (a) of this paragraph  
15 for any county is greater than the proportion computed under paragraph 2 of  
16 this subsection, the department shall compute the difference between the  
17 amount distributed to that county under paragraph 2 of this subsection and  
18 the amount that would have been distributed under paragraph 2 of this  
19 subsection using the proportion computed under subdivision (a) of this  
20 paragraph and shall pay that difference to the county from the amount  
21 available for distribution under this paragraph. Any monies remaining after  
22 all payments under this subdivision shall be distributed among the counties  
23 according to the proportions computed under paragraph 2 of this subsection.

24 4. After any distributions required by sections 42-5030, 42-5030.01,  
25 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water  
26 quality assurance revolving fund as required by section 49-282, subsection B,  
27 credit the remainder of the monies designated as distribution base to the  
28 state general fund. From this amount:

29 (a) The legislature shall annually appropriate to:

30 ~~(a)~~ (i) The department of revenue sufficient monies to administer and  
31 enforce this article and articles 5 and 8 of this chapter.

1           ~~(b)~~ (ii) The department of economic security monies to be used for  
2 the purposes stated in title 46, chapter 1.

3           ~~(c)~~ (iii) The firearms safety and ranges fund established by section  
4 17-273, fifty thousand dollars derived from the taxes collected from the  
5 retail classification pursuant to section 42-5061 for the current fiscal  
6 year.

7           (b) SUBJECT TO SEPARATE INITIAL LEGISLATIVE AUTHORIZATION, EACH YEAR  
8 THE STATE TREASURER SHALL TRANSFER TO THE TOURISM FUND AN AMOUNT EQUAL TO THE  
9 SUM OF THE FOLLOWING:

10           (i) THREE AND ONE-HALF PER CENT OF THE GROSS REVENUES DERIVED FROM THE  
11 TRANSIENT LODGING CLASSIFICATION PURSUANT TO SECTION 42-5070 DURING THE  
12 PRECEDING FISCAL YEAR.

13           (ii) THREE PER CENT OF THE GROSS REVENUES DERIVED FROM THE AMUSEMENT  
14 CLASSIFICATION PURSUANT TO SECTION 42-5073 DURING THE PRECEDING FISCAL YEAR.

15           (iii) TWO PER CENT OF THE GROSS REVENUES DERIVED FROM THE RESTAURANT  
16 CLASSIFICATION PURSUANT TO SECTION 42-5074 DURING THE PRECEDING FISCAL YEAR.

17           E. If approved by the qualified electors voting at a statewide general  
18 election, all monies collected pursuant to section 42-5010, subsection G and  
19 section 42-5155, subsection D shall be distributed each fiscal year pursuant  
20 to this subsection. The monies distributed pursuant to this subsection are  
21 in addition to any other appropriation, transfer or other allocation of  
22 public or private monies from any other source and shall not supplant,  
23 replace or cause a reduction in other school district, charter school,  
24 university or community college funding sources. The monies shall be  
25 distributed as follows:

26           1. If there are outstanding state school facilities revenue bonds  
27 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the  
28 amount that is necessary to pay the fiscal year's debt service on outstanding  
29 state school improvement revenue bonds for the current fiscal year shall be  
30 transferred each month to the school improvement revenue bond debt service  
31 fund established by section 15-2084. The total amount of bonds for which  
32 these monies may be allocated for the payment of debt service shall not

1 exceed a principal amount of eight hundred million dollars exclusive of  
2 refunding bonds and other refinancing obligations.

3 2. After any transfer of monies pursuant to paragraph 1 of this  
4 subsection, twelve per cent of the remaining monies collected during the  
5 preceding month shall be transferred to the technology and research  
6 initiative fund established by section 15-1648 to be distributed among the  
7 universities for the purpose of investment in technology and research-based  
8 initiatives.

9 3. After the transfer of monies pursuant to paragraph 1 of this  
10 subsection, three per cent of the remaining monies collected during the  
11 preceding month shall be transferred to the workforce development account  
12 established in each community college district pursuant to section 15-1472  
13 for the purpose of investment in workforce development programs.

14 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
15 subsection, one-twelfth of the amount a community college that is owned,  
16 operated or chartered by a qualifying Indian tribe on its own Indian  
17 reservation would receive pursuant to section 15-1472, subsection D,  
18 paragraph 2 if it were a community college district shall be distributed each  
19 month to the treasurer or other designated depository of a qualifying Indian  
20 tribe. Monies distributed pursuant to this paragraph are for the exclusive  
21 purpose of providing support to one or more community colleges owned,  
22 operated or chartered by a qualifying Indian tribe and shall be used in a  
23 manner consistent with section 15-1472, subsection B. For the purposes of  
24 this paragraph, "qualifying Indian tribe" has the same meaning as defined in  
25 section 42-5031.01, subsection D.

26 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
27 subsection, one-twelfth of the following amounts shall be transferred each  
28 month to the department of education for the increased cost of basic state  
29 aid under section 15-971 due to added school days and associated teacher  
30 salary increases enacted in 2000:

31 (a) In fiscal year 2001-2002, \$15,305,900.

32 (b) In fiscal year 2002-2003, \$31,530,100.

1 (c) In fiscal year 2003-2004, \$48,727,700.

2 (d) In fiscal year 2004-2005, \$66,957,200.

3 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
4 \$86,280,500.

5 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
6 subsection, seven million eight hundred thousand dollars is appropriated each  
7 fiscal year, to be paid in monthly installments, to the department of  
8 education to be used for school safety as provided in section 15-154 and two  
9 hundred thousand dollars is appropriated each fiscal year, to be paid in  
10 monthly installments to the department of education to be used for the  
11 character education matching grant program as provided in section 15-154.01.

12 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
13 subsection, no more than seven million dollars may be appropriated by the  
14 legislature each fiscal year to the department of education to be used for  
15 accountability purposes as described in section 15-241 and title 15, chapter  
16 9, article 8.

17 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
18 subsection, one million five hundred thousand dollars is appropriated each  
19 fiscal year, to be paid in monthly installments, to the failing schools  
20 tutoring fund established by section 15-241.

21 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
22 subsection, twenty-five million dollars shall be transferred each fiscal year  
23 to the state general fund to reimburse the general fund for the cost of the  
24 income tax credit allowed by section 43-1072.01.

25 10. After the payment of monies pursuant to paragraphs 1 through 9 of  
26 this subsection, the remaining monies collected during the preceding month  
27 shall be transferred to the classroom site fund established by section  
28 15-977. The monies shall be allocated as follows in the manner prescribed by  
29 section 15-977:

30 (a) Forty per cent shall be allocated for teacher compensation based  
31 on performance.

1           (b) Twenty per cent shall be allocated for increases in teacher base  
2 compensation and employee related expenses.

3           (c) Forty per cent shall be allocated for maintenance and operation  
4 purposes.

5           F. The department shall credit the remainder of the monies in the  
6 transaction privilege and severance tax clearing account to the state general  
7 fund, subject to any distribution required by section 42-5030.01.

8           G. Notwithstanding subsection D of this section, if a court of  
9 competent jurisdiction finally determines that tax monies distributed under  
10 this section were illegally collected under this article or articles 5 and 8  
11 of this chapter and orders the monies to be refunded to the taxpayer, the  
12 department shall compute the amount of such monies that was distributed to  
13 each city, town and county under this section. The department shall notify  
14 the state treasurer of that amount plus the proportionate share of additional  
15 allocated costs required to be paid to the taxpayer. Each city's, town's and  
16 county's proportionate share of the costs shall be based on the amount of the  
17 original tax payment each municipality and county received. Each month the  
18 state treasurer shall reduce the amount otherwise distributable to the city,  
19 town and county under this section by one thirty-sixth of the total amount to  
20 be recovered from the city, town or county until the total amount has been  
21 recovered, but the monthly reduction for any city, town or county shall not  
22 exceed ten per cent of the full monthly distribution to that entity. The  
23 reduction shall begin for the first calendar month after the final  
24 disposition of the case and shall continue until the total amount, including  
25 interest and costs, has been recovered.

26           H. On receiving a certificate of default from the greater Arizona  
27 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the  
28 extent not otherwise expressly prohibited by law, the state treasurer shall  
29 withhold from the next succeeding distribution of monies pursuant to this  
30 section due to the defaulting political subdivision the amount specified in  
31 the certificate of default and immediately deposit the amount withheld in the  
32 greater Arizona development authority revolving fund. The state treasurer



1 shall continue to withhold and deposit the monies until the greater Arizona  
2 development authority certifies to the state treasurer that the default has  
3 been cured. In no event may the state treasurer withhold any amount that the  
4 defaulting political subdivision certifies to the state treasurer and the  
5 authority as being necessary to make any required deposits then due for the  
6 payment of principal and interest on bonds of the political subdivision that  
7 were issued before the date of the loan repayment agreement or bonds and that  
8 have been secured by a pledge of distributions made pursuant to this section.

9 I. Except as provided by sections 42-5033 and 42-5033.01, the  
10 population of a county, city or town as determined by the most recent United  
11 States decennial census plus any revisions to the decennial census certified  
12 by the United States bureau of the census shall be used as the basis for  
13 apportioning monies pursuant to subsection D of this section.

14 J. Except as otherwise provided by this subsection, on notice from the  
15 department of revenue pursuant to section 42-6010, subsection B, the state  
16 treasurer shall withhold from the distribution of monies pursuant to this  
17 section to the affected city or town the amount of the penalty for business  
18 location municipal tax incentives provided by the city or town to a business  
19 entity that locates a retail business facility in the city or town. The  
20 state treasurer shall continue to withhold monies pursuant to this subsection  
21 until the entire amount of the penalty has been withheld. The state  
22 treasurer shall credit any monies withheld pursuant to this subsection to the  
23 state general fund as provided by subsection D, paragraph 4 of this section.  
24 The state treasurer shall not withhold any amount that the city or town  
25 certifies to the department of revenue and the state treasurer as being  
26 necessary to make any required deposits or payments for debt service on bonds  
27 or other long-term obligations of the city or town that were issued or  
28 incurred before the location incentives provided by the city or town.

29 K. On notice from the auditor general pursuant to section 9-626,  
30 subsection D, the state treasurer shall withhold from the distribution of  
31 monies pursuant to this section to the affected city the amount computed  
32 pursuant to section 9-626, subsection D. The state treasurer shall continue

1 to withhold monies pursuant to this subsection until the entire amount  
2 specified in the notice has been withheld. The state treasurer shall credit  
3 any monies withheld pursuant to this subsection to the state general fund as  
4 provided by subsection D, paragraph 4 of this section.

5 L. For the purposes of this section, "community college district"  
6 means a community college district that is established pursuant to sections  
7 15-1402 and 15-1403 and that is a political subdivision of this state."

8 Amend title to conform

BARBARA LEFF

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C: dmt